

ILLINOIS POLLUTION CONTROL BOARD

January 3, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
Complainant, )  
 )  
v. ) PCB 74-165  
 )  
M & W DISPOSAL COMPANY, INC., an )  
Illinois Corporation; J & V DEVELOPMENT )  
COMPANY, an Illinois Corporation; and )  
MELVIN F. WATSON, an individual, )  
Respondent. )

Mr. Jeffery S. Herden, attorney for Complainant.  
Mr. Lyman C. Tieman, attorney for M and W Disposal Company,  
Inc. and Mr. Melvin Watson.  
Mr. Robert Quinn, attorney for J and V Development Company.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On April 26, 1974, the Environmental Protection Agency (Agency) filed a Complaint against Respondents and alleged numerous violations in the operation of a landfill located in Rockdale, Will County, Illinois. In Count I, Complainant charged that Respondents from March 22, 1973, until July 27, 1973, including certain specified dates:

1. Operated the landfill without a permit in violation of Section 21(e) of the Environmental Protection Act (Act).

2. Inadequately fenced the facility in violation of Section 21(b) of the Act and Rule 4.03 of the Rules and Regulations For Refuse Disposal Sites and Facilities (Rules and Regulations).

3. Failed to provide daily cover in violation of Section 21(b) of the Act and Rule 5.07(a) of the Rules and Regulations.

4. Failed to provide final cover in violation of Section 21(b) of the Act and Rule 5.07(b) of the Rules and Regulations.

Additional violations were charged in Count II for the period July 27, 1973, to April 26, 1974, including specific dates. During this period Complainant alleged that Respondents:

1. Failed to provide adequate fire protection, fencing, gates and other measures to control access to the site, and failed to control dust in violation of Section 21(b) of the Act and Rules 314(c), (d), and (f) of the Pollution Control Board's regulations for Solid Waste (Chapter 7).
2. Failed to provide daily cover in violation of Section 21(b) of the Act and Rule 305 of Chapter 7.
3. Failed to spread and compact refuse as rapidly as it was deposited at the toe of the landfill in violation of Section 21(b) of the Act and Rule 303(b) of Chapter 7.
4. Caused or allowed scavenging operations at the site in violation of Section 21(b) of the Act and Rule 308 of Chapter 7.

In Count III, Complainant alleged that from June 22, 1973, until April 26, 1974, Respondents had not obtained all necessary permits and from March 22, 1973, until April 26, 1974, Respondents had failed to close its facility since necessary permits were not obtained. Both allegations were violations of the former Order of the Pollution Control Board (Board) in Environmental Protection Agency v. M and W Disposal Company, #72-467; 7 PCB 379 (March 22, 1973). Point one of that Order, payment of a \$2,500 penalty, had been complied with.

A hearing occurred in Joliet, Illinois, on June 21, 1974; the parties indicated that a tentative settlement agreement had been reached (R-6). The Stipulation and Proposal For Settlement was submitted to the Board in final form on July 12. J and V Development Company owned the land occupied by the landfill (Stipulation and Proposal For Settlement, page 3). The settlement agreement provided for the dismissal of J and V Development Company as a party Respondent because it did not operate the landfill (R-9). The other Respondents admitted as violations most of the charges indicated in Counts I and II; Count III was dismissed "because the Board cannot enforce its own order" (R-12). The two Respondents agreed to pay a \$5,000 penalty (R-9) and comply with all Board regulations. The program of compliance has already been undertaken in that a conditional permit has been issued to Respondents for a new landfill west of the present facility (R-13) and plans are to close down the present site on approximately September 1, 1974 (Stipulation and Proposal For Settlement, page 6). Finally, the Stipulation provided that should the Board fail to approve it and the \$5,000 penalty, that the Stipulation would be held for nought and that no admissions in the Stipulation would prejudice either party in subsequent hearings.

Several witnesses testified at the hearing. An Agency official stated that at his last visit in March, 1974, the problem of the inadequacy of daily cover still existed (R-21). Unimpeached citizen testimony vociferously objected to the

inconvenience, the odor problems (R-23, 24, 27), the rat problems (R-35), and the serious dust nuisance caused by Respondents in operating the site (R-39, 40).

We rejected the Stipulation and Proposal For Settlement in our Interim Order of September 5, 1974, because the penalty was unreasonably low and insufficient proof was submitted that the closing landfill site and the new site were in compliance with the Act.

A second hearing was held on November 15, 1974, in Chicago, Illinois. The Stipulation and Proposal For Settlement was orally amended on the record to provide for a civil penalty of \$10,000. Several additional exhibits were entered into the record. On December 18, 1974, the attorney for the Complainant submitted a letter of clarification regarding the designation of the landfills on the inspection reports already entered into evidence.

We accept the Stipulation and Proposal For Settlement as amended. We find that Rules 4.03(a) and 5.07(a) of the Rules and Regulations were violated on April 12, May 24, and July 13, 1973. Section 21(b) was also violated on those same dates. From March 22, 1973, until July 27, 1973, the landfill was operated without a permit in violation of Section 21(e) of the Act. Rule 308 of Chapter 7 was violated on October 30, 1973; Rule 303(b) was violated on December 5 and 6, 1973. On August 23, October 30, December 5 and 6, 1973, and January 24, 1974, Rules 305(a), 314(d), and 314(f) of Chapter 7 were violated. Section 21(b) of the Act was violated on these same dates. Respondents M and W Disposal and Melvin F. Watson are the only parties who are responsible for these violations. For the purposes of carrying out the settlement, we agree to dismiss J and V Development Company. Count III will be dismissed for the sole reason that the parties made such dismissal an express term of their Stipulation and Proposal For Settlement.

Final cover is being applied to the old landfill site which has been closed since September 11, 1974 (R-51, 59). The new ten-acre site, on the western edge of the same 32-acre tract, is operating within all applicable rules and regulations (R.51). The latest report from the new site was for an inspection conducted on November 11, 1974. The stipulated penalty is reasonable and should serve as a sufficient deterrent to improper operation of similar kinds of facilities.

This constitutes the findings of fact and conclusions of law of the Board.

#### ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent J and V Development Company and all allegations in Count III of the Complaint are dismissed.
2. Respondents M and W Disposal Company and Melvin F. Watson shall complete the final cover requirements on the old site by January 31, 1975.

3. Respondents M and W Disposal Company, Inc., and Melvin F. Watson shall pay a penalty of Ten Thousand Dollars (\$10,000) for their violations of the Act and Regulations established in this Opinion. The Respondents are jointly and severally liable for the violations and payments of this civil penalty. Payment shall be by certified check or money order payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be made within 35 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 3<sup>RD</sup> day of January, 1974, by a vote of 5 to 0.

  
Christan L. Moffett